

Docket No.: 122.1488

Serial No. 10/075,027

REMARKS

In accordance with the foregoing, claims 2, 4, 6, 9, 11 and 13 have been cancelled and claims 1, 3, 5, 7, 8, 10, 12, 14 and 15 have been amended and new claims 16-18 are added.

Accordingly, claims 1, 3, 5, 7-8, 10, 12-18 are pending herein.

STATUS OF CLAIMS

In the outstanding Office Action, original claims 1-15 were all rejected.

ITEM 2: REJECTION OF CLAIMS 1, 7, 8, 14 AND 15 FOR OBVIOUSNESS UNDER 35 U.S.C. §103(a) OVER SHURMER ET AL. (U.S. PATENT 5,974,237) IN VIEW OF HIROAKI AND ZISAPEL ET AL.;

ITEM 3: REJECTION OF CLAIMS 2 AND 9 FOR OBVIOUSNESS UNDER 35 U.S.C. §103(a) OVER THE REFERENCES RELIED UPON IN ITEM 2 IN ADDITION TO TAKASHI ET AL. ;

ITEM 4: REJECTION OF CLAIMS 3-6 AND 10-13 FOR OBVIOUSNESS OVER ONE OR MORE OF THE FOREGOING REFERENCES TAKEN FURTHER IN VIEW OF KAZOU ET AL.;

ITEM 5: REJECTION OF CLAIMS 3 AND 10 FOR OBVIOUSNESS OVER ONE OR MORE OF THE FOREGOING REFERENCES; AND

ITEM 8: REJECTION OF CLAIMS 6 AND 13 FOR OBVIOUSNESS OVER ONE OR MORE OF THE FOREGOING REFERENCES IN ADDITION TO KAZOU

The rejections are respectfully traversed.

It is respectfully submitted that the rejections of claims 2 and 9 based on Takashi et al. and Kazou et al. are misplaced, since the features of those claims are not taught by those references.

A patentably distinguishing feature of one group of claims relates to determining a communication interval, variously by a system (claims 1 and 7) a method (claims 8, 12, 13 and 14, and by a program stored in a medium (claim 15).

A further, patentably distinguishing aspect of the invention relates to polling to determine the order of transmission lines to be used for polling for nodes to be monitored in accordance with a system claim 3 depending on claim 1, a method claim 10/8, a further system claim 16, a method claim 17 and a claim to a program recorded in a recording medium of claim 18.

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It is respectfully submitted that these foregoing patentably distinguishing characteristics of the present invention, variously present in the above claims, whether independent or dependent, serve to distinguish the corresponding claims over the art and rejections of record.

CONCLUSION

It is submitted that the foregoing has demonstrated that the references of record do not teach the features set forth in the pending claims and, instead, those claims patentably distinguish over the references and rejections of record.

LACK OF *PRIMA FACIE* OBVIOUSNESS OF THE COMBINATIONS OF REFERENCES RELIED UPON

It is submitted that the Action fails to satisfy the requirement of a *prima facie* demonstration of obviousness of the combination and, instead, relies on the discredited bare contention that the combination "would have been obvious to one of ordinary skill in the art...." Moreover, motivation to effect the combinations is not supported by the Examiner's suggestions. See MPEP 706.02(j) which emphasizes that the Examiner should set forth in the Office Action: (A) the relevant teachings of the prior art relied upon, preferably with reference to the relevant column or page number(s) and line number(s) where appropriate, (B) the difference or differences in the claim over the applied reference(s), (C) the proposed modification of the applied reference(s) necessary to arrive at the claimed subject matter, and (D) an explanation why one of ordinary skill in the art at the time the invention was made would have been motivated to make the proposed modification.

To establish a *prima facie* case of obviousness, three basic criteria must be met. First, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings. Second, there must be a reasonable expectation of success. Finally, the prior art reference (or references when combined) must teach or suggest all the claim limitations. The teaching or suggestion to make the claimed combination and the reasonable expectation of success must both be found in the prior art and not based on applicant's disclosure. *In re Vaeck*, 947 F.2d 488, 20 USPQ2d 1438 (Fed. Cir. 1991). See MPEP § 2143 - § 2143.03 for decisions pertinent to each of these criteria.

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CONCLUSION

In accordance with the foregoing, it is respectfully submitted that the pending claims patentably distinguish over the references and rejections of record. There being no further outstanding objections or rejections, it is submitted that the application is in condition for allowance. An early action to that effect is courteously solicited.

Finally, if there are any formal matters remaining after this response, the Examiner is requested to telephone the undersigned to attend to these matters.

If there are any additional fees associated with filing of this Amendment, please charge the same to our Deposit Account No. 19-3935.

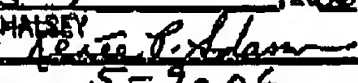
Respectfully submitted,

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